



February 28, 2001

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## SENATE BILL No. 565

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DIGEST OF SB 565 (Updated February 26, 2001 3:03 PM - DI 102)

**Citations Affected:** IC 3-6; IC 3-7; IC 3-11; IC 3-13.

**Synopsis:** Various election law changes. Establishes a procedure for a member of a county election board file a protest with the state election commission concerning an election ballot that the member reasonably believes does not comply with the requirements of IC 3-11-2 or is otherwise not in the form required by law. Requires that nominees be listed on a general election ballot in type with uniform capital letters and with uniform space between each name. Permits the county executive to locate the polls for a precinct in an adjoining precinct, using the precinct election board of the adjoining precinct, if the county election board, by unanimous vote, determines that there are not enough active voters in the precinct to require a separate precinct election board. Requires the governor to make appointments to certain vacant state and judicial offices not later than 60 days after the governor receives certification that the vacancy exists. Repeals a requirement that a county having a population of more than 125,000 have a board of voter registration. Permits the county executive of a county having a population of more than 125,000 to adopt an order to establish a board of voter registration.

**Effective:** July 1, 2001.

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January 23, 2001, read first time and referred to Committee on Legislative Apportionment & Elections.  
February 27, 2001, amended, reported favorably — Do Pass.

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SB 565—LS 8103/DI 102+



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February 28, 2001

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## SENATE BILL No. 565

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

- 1 SECTION 1. IC 3-6-4.1-14 IS AMENDED TO READ AS
- 2 FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 14. (a) In addition to
- 3 other duties prescribed by law, the commission shall do the following:
- 4 (1) Administer Indiana election laws.
- 5 (2) Adopt rules under IC 4-22-2 to do the following:
- 6 (A) Govern the fair, legal, and orderly conduct of elections,
- 7 including the following:
- 8 (i) Emergency rules described in section 16 of this chapter
- 9 to implement a court order requiring the commission, the
- 10 election division, or an election board or official to
- 11 administer an election in a manner not authorized by this
- 12 title.
- 13 (ii) Rules (including joint rules with other agencies when
- 14 necessary) to implement and administer NVRA.
- 15 (B) Carry out IC 3-9 (campaign finance).
- 16 (C) Govern the establishment of precincts under IC 3-11-1.5.
- 17 (D) Specify procedures and fees for the processing of an

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1 application from a vendor for voting systems approval and  
2 testing.

3 (E) Prescribe formats for the storage and submission of  
4 computerized voter registration records by county and state  
5 agencies or offices.

6 (3) Prescribe a uniform set of election and registration forms for  
7 use throughout Indiana, except when prescribed by this title.

8 (4) Advise and exercise supervision over local election and  
9 registration officers.

10 **(5) Investigate and take appropriate action on petitions filed**  
11 **under IC 3-11-2-17.**

12 (b) This section does not divest a county election board of any  
13 powers and duties imposed on the board in IC 3-6-5, except that if  
14 there is a deadlock on a county election board, the county election  
15 board shall submit the question to the commission for final  
16 determination.

17 SECTION 2. IC 3-7-12-4 IS AMENDED TO READ AS FOLLOWS  
18 [EFFECTIVE JULY 1, 2001]: Sec. 4. The county executive of a county  
19 not described in section 2 ~~or~~ 3 of this chapter may adopt an order to  
20 establish a board of registration.

21 SECTION 3. IC 3-11-2-5 IS AMENDED TO READ AS FOLLOWS  
22 [EFFECTIVE JULY 1, 2001]: Sec. 5. The nominees of a political party  
23 or group of petitioners shall be listed on the ballots **in type with**  
24 **uniform capital letters and with uniform space between each name**  
25 under the name and device of the party or petitioners as designated by  
26 them in their certificate or petition, or if none is designated, then under  
27 some suitable name and device. If the same device for designating  
28 candidates is selected by two (2) parties or groups of petitioners, it  
29 shall be given to the one (1) that first selected it, and a suitable device  
30 shall be selected for the other party or group of petitioners.

31 SECTION 4. IC 3-11-2-17 IS ADDED TO THE INDIANA CODE  
32 AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY  
33 1, 2001]: Sec. 17. **(a) If a member of the county election board has**  
34 **a reasonable belief based on verifiable information that an election**  
35 **ballot for the member's county does not comply with the**  
36 **requirements of this chapter or is not in the form required by law,**  
37 **the member may file a petition with the commission protesting the**  
38 **ballot form not later than five (5) days after the member receives**  
39 **the information concerning the election ballot.**

40 **(b) The petition must specify the manner in which the election**  
41 **ballot does not comply with the requirements of this chapter or is**  
42 **not in the form required by law, including a reference by citation**

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to the specific statutory requirement involved.

(c) The county election board member who files a petition under subsection (a) shall serve a copy of the petition upon the other members of the county election board and the circuit court clerk, if the clerk is not a member of the county election board, at the time the petition is filed with the commission.

(d) Upon receipt of a petition filed under subsection (a), the commission shall make an investigation in accordance with IC 3-6-4.1-21(b).

(e) If the commission determines there is substantive reason to believe that the election ballot does not comply with the requirements of this chapter or is not in the form required by law, the commission shall afford due notice and hold a hearing under IC 3-6-4.1-25.

(f) If, after the hearing, the commission determines that the ballot fails to comply with one (1) or more of the requirements of this chapter or is otherwise not in the form required by law, the commission shall take the action it considers appropriate under IC 3-6-4.1-21(c).

SECTION 5. IC 3-11-8-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.3. If a precinct contains less than two hundred fifty (250) active voters, The county executive may locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct, if the county election board, by unanimous vote, determines there is an insufficient number of active voters in a precinct to require a separate precinct election board.

SECTION 6. IC 3-13-4-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) A vacancy that occurs, other than by resignation, in a state office other than governor, lieutenant governor, or a judicial office shall be certified to the governor by the circuit court clerk of the county in which the officer resided.

(b) A vacancy in a state office other than governor, lieutenant governor, or a judicial office shall be filled by appointment by the governor. **The governor shall make an appointment not later than sixty (60) days after the governor receives the certification described in subsection (a).** The person who is appointed holds office for the remainder of the unexpired term and until a successor is elected and qualified.

SECTION 7. IC 3-13-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) A vacancy that occurs, other than by resignation, in the office of judge of a circuit, superior, probate,

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or county court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a circuit court shall be filled by the governor as provided by Article 5, Section 18 of the Constitution of the State of Indiana. **The governor shall make an appointment not later than sixty (60) days after the governor receives the certification described in subsection (a).** The person who is appointed holds the office until:

(1) the end of the unexpired term; or

(2) a successor is elected at the next general election and qualified;

whichever occurs first. The person elected at the general election following an appointment to fill the vacancy, upon being qualified, holds office for the six (6) year term prescribed by Article 7, Section 7 of the Constitution of the State of Indiana and until a successor is elected and qualified.

(c) A vacancy in the office of judge of a superior, probate, or county court shall be filled by the governor subject to the following:

(1) IC 33-5-5.1-37.1.

(2) IC 33-5-5.1-41.1.

(3) IC 33-5-29.5-39.

(4) IC 33-5-40-44.

**Unless another period is specified by state law, the governor shall make an appointment not later than sixty (60) days after the governor receives the certification described in subsection (a).** The person who is appointed holds office for the remainder of the unexpired term.

SECTION 8. IC 3-13-8-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) A vacancy that occurs, other than by resignation, in the office of judge of a city court shall be certified to the governor by the circuit court clerk of the county in which the judge resided.

(b) A vacancy in the office of judge of a city court shall be filled by the governor **not later than sixty (60) days after the governor receives the certification described in subsection (a).**

SECTION 9. IC 3-7-12-3 IS REPEALED [EFFECTIVE JULY 1, 2001].

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## COMMITTEE REPORT

Mr. President: The Senate Committee on Legislative Apportionment and Elections, to which was referred Senate Bill No. 565, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, delete lines 21 through 29.

Page 3, between lines 28 and 29, begin a new paragraph and insert:

"SECTION 6. IC 3-11-8-4.3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4.3. ~~If a precinct contains less than two hundred fifty (250) active voters;~~ The county executive may locate the polls for the precinct at the polls for an adjoining precinct, using the precinct election board of the adjoining precinct, **if the county election board, by unanimous vote, determines there is an insufficient number of active voters in a precinct to require a separate precinct election board.**".

Re-number all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 565 as introduced.)

LANDSKE, Chairperson

Committee Vote: Yeas 8, Nays 0.

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